

E-filed: 9/5/2008IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION1
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8 RAMBUS INC.,

Plaintiff,

v.

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10 HYNIX SEMICONDUCTOR INC., HYNIX
11 SEMICONDUCTOR AMERICA INC.,
12 HYNIX SEMICONDUCTOR
13 MANUFACTURING AMERICA INC.,14 SAMSUNG ELECTRONICS CO., LTD.,
15 SAMSUNG ELECTRONICS AMERICA,
16 INC., SAMSUNG SEMICONDUCTOR, INC.,
17 SAMSUNG AUSTIN SEMICONDUCTOR,
18 L.P.,NANYA TECHNOLOGY CORPORATION,
19 NANYA TECHNOLOGY CORPORATION
20 U.S.A.,

Defendants.

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28 No. C-05-00334 RMWORDER GRANTING SAMSUNG'S MOTION
TO SHORTEN TIME AND DENYING
SAMSUNG'S MOTION TO DISMISS

[Re Docket No. 2119, 2121]

No. C-05-02298 RMW

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA,
INC., SAMSUNG SEMICONDUCTOR, INC.,
SAMSUNG AUSTIN SEMICONDUCTOR,
L.P.,

Defendants.

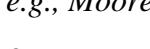
[Re Docket No. 1068, 1070]

ORDER GRANTING SAMSUNG'S MOTION TO SHORTEN TIME REGARDING SAMSUNG'S MOTION TO DISMISS AND
DENYING SAMSUNG'S MOTION TO DISMISS — C-05-00334 RMW; C-05-02298 RMW
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1 On September 2, 2008, Samsung moved pursuant to Civil Local Rule 6-3 to shorten time on
2 its motion to voluntarily dismiss certain claims and defenses scheduled to be tried on September 22.
3 Prior to the court ruling on the motion to shorten time, Rambus filed its opposition to the underlying
4 motion to dismiss. The court therefore grants Samsung's motion to shorten time.

5 The court has reviewed the moving and opposing papers with regard to the motion to
6 dismiss. The court deems the matter appropriate for submission on the papers. See Civ. L.R. 7-1(b).

7 Samsung moves to voluntarily dismiss some of its claims and defenses pursuant to Rule
8 41(a)(2). "As its title, 'Dismissal of Actions,' suggests, Rule 41, or at least Rule 41(a), governs
9 dismissals of *entire actions*, not of individual claims." *Hells Canyon Preservation Council v. U.S.*
10 *Forest Service*, 403 F.3d 683, 687 (9th Cir. 2005) (emphasis in original). "[T]he Rule does not
11 allow for piecemeal dismissals." *Id.* Where a plaintiff wishes to withdraw individual claims, it must
12 do so pursuant to Rule 15. *Id.*

13 In determining whether to permit a plaintiff leave to amend under Rule 15, "[p]rejudice to
14 the opposing party is the most important factor." *Jackson v. Bank of Hawaii*, 902 F.2d 1385, 1387
15 (9th Cir. 1990). Such prejudice exists here. Samsung's motion comes with less than a month until
16 trial. It is enormously prejudicial to Rambus to allow Samsung to dismiss its claims now and permit
17 it to move this trial to state court and without the existing record already developed in the almost
18 eight weeks of trial that occurred before this court in January. This will impose both an undue delay
19 and substantial additional costs on Rambus. *Accord AmerisourceBergen Corp. v. Dialysist West,*
20 *Inc.*, 465 F.3d 946, 951 (9th Cir. 2006). Because the ample prejudice to Rambus justifies denying
21 Samsung's motion to amend its complaint, the court does not reach the close questions of whether
22 Samsung's motion is made in bad faith or with dilatory motive, which would provide separate
23 grounds for denying a motion to amend a complaint. *See, e.g., Moore v. Kayport Package Exp.,*
24 *Inc.*, 885 F.2d 531, 538 (9th Cir. 1989). 

25 DATED: 9/5/2008

Ronald M Whyte

RONALD M. WHYTE
United States District Judge

United States District Court

For the Northern District of California

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United States District Court

For the Northern District of California

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Dated: 9/5/2008

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Chambers of Judge Whyte

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